THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.4600 of 1998

Date:21.10.2005

Abid Ali Khan

----------Petitioner

The Labour Court, Hyderabad and another

----------Respondents

ORDER:

The petitioner was employed in the IDL Chemicals Limited, Kukatpally, Hyderabad, 2nd respondent herein, in the year 1976. He applied for leave from 29.01.1982 to 12.02.1982. However, he did not report to duty, after expiry of the sanctioned leave. On the ground that he did not report to duty within eight days from the expiry of leave, as provided for under Clause 12-A of the Standing orders, the 2nd respondent struck off the name of the petitioner from the rolls. The petitioner raised an Industrial Dispute before the Labour Court, Hyderabad, 1st respondent herein, and it was taken up as I.D.No.62 of 1987. The Labour Court did not grant any relief and rejected the I.D. Hence, this writ petition.

A.Sreenivasa Rao, the learned counsel for the petitioner submits that even assuming that the petitioner failed to report to duty within eight days after expiry of the leave, the 2nd respondent could have terminated the lien of the petitioner, only after conducting enquiry or after following the procedure prescribed under 25-F of the Industrial Disputes Act, 1947 (for short 'the Act'), since it amounts to retrenchment. He contends that admittedly no such enquiry was conducted and that the Labour Court ought to have directed reinstatement of the petitioner.

It is not in dispute that the petitioner failed to report to duty, after expiry of the

leave sanctioned to him. He was expected to report to duty on 13.02.1982. Though the petitioner asserts that he reported to duty on 24.02.1982, there is nothing on record to substantiate the same.

Clause 12-A of the Standing Orders is to the effect that the employee shall loose the lien over his appointment, in case he fails to report to duty within eight days, after expiry of the leave. Termination of lien cannot be equated to a punitive action of removal from service or retrenchment. The necessity to follow the procedure under 25-F of the Act would arise, if only the 2nd respondent terminated the services of the petitioner, on its own accord.

Even assuming that the action of the 2nd respondent amounts to retrenchment of the petitioner, it needs to be noticed that the petitioner has settled his accounts with the 2nd respondent and received the benefits, years before he raised the Industrial Dispute. He did not choose to enter the witness box in the Labour Court. The question as to whether there was any violation of the procedure prescribed under Section 25-F of the Act would have been fallen for consideration, if only the petitioner had deposed various facts, which have a bearing upon the application of the said provision. In the absence of the same, the Labour Court was not expected to apply the principle, underlying the said provision. Hence, no interference is called for, with the impugned order.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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21.10.2005

Jsu